



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Aharon TAVIVIAN

Serial No. 10/814,787

Filed: April 1, 2004

For: A PLASTIC PROFILE

Group Art Unit: 3751

Examiner: Huyen D. Le

Atty. Dkt. No.: 004539,00018

DECLARATION OF AHARON TAVIVIAN UNDER 37 C.F.R. § 1.132

U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Amendment
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

I, AHARON TAVIVIAN, declare as follows:

1. I am the owner of MTD Industries, Ltd., P.O. Box 2059 Beer Sheva 84874, Israel (hereinafter referred to as MTD.) and I am the inventor and my company, MTD., is the owner of PCT Patent Application WO01/17411.

2. My company has manufactured shower enclosures with flexible hinges in accordance with the above PCT Patent Application, however, said flexible hinges were not free to move in a sense of swivel away from the end segments to form a reflex angle therewith, and at the time of the writing of said application, and even during our manufacture and sale of products according therewith, the possibility of this feature was not apparent to us and was not used in said product. The demand of the market for these shower enclosures was very limited. Thus it was necessary for us to stop the marketing of this product which did not achieve commercial success and it was decided that it was necessary to continue and to try to develop a better product.

3. More specifically, shower enclosures according to WO01/17411 were manufactured started in September 1999. We manufactured 1,000 shower enclosures

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with a flexible hinge of white color and 500 of substantially transparent plastic, and we attempted selling showers with these hinges until the end of 2002. The large marketing chains in Israel refused to market the product and our company also did not succeed in obtaining penetration of this product to local outlets for these products. During this entire period, only small outlet stores and private individuals purchased such shower enclosures from our factory store and the total sales were less than 300 units. There also were many complaints from customers with regard to this product. Therefore the major bulk of the enclosures with these hinges remained as "dead inventory" in our factory.

4. Only after I conceived of and developed the variable angle load-bearing connector panel for connecting a plurality of shower enclosing assembly panels as described and defined in the present application, a connector with additional technological advantages as specified in the present application and enabling the accordion-like folding for storage and transportation of said assembly panels did the new product based thereon become a commercial success.

5. More specifically, In January 2003 we began to market the new shower enclosure according to the above-identified application, which was accepted both by the marketing chains and by local outlet stores for this product. In the year 2003 alone, more shower enclosures with these flexible hinges were sold than the entire amount sold between 1999 and 2002 of the earlier series. In fact in order not to antagonize clients we were forced to distribute shower enclosures of this new series to replace shower enclosures which were previously sold from the first series according to WO01/17411.

6. From January 2003, until today, all of the shower enclosures that we sell are with the new flexible hinge as defined in the above-identified application, and more than 6,000 such shower enclosures have been sold to date.

We are now about to produce an additional 10,000 shower enclosure units according to the features of the above-identified application and believe that these units will also be readily purchased.

7. I would like to emphasize that, to myself, the inventor of the PCT Patent Application WO01/17411, it was by no means obvious to modify the flexible hinge described therein and to instead use the hinge of the present application as also

evidenced by the fact that my company commercialized shower enclosures which did not have this feature. It took mental efforts, research and development, and investment of time and money to arrive at the product which is the subject matter of the present application, and which has now achieved commercial success because of the novel and unobvious features incorporated therein.

8. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: _____

Sept 22, 2005

Aharon Tavivian